IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION Nos.11621 & 11622 of 2004

-

WRIT PETITION NO : 11621 of 2004

Between:

1 Smt. Konduri Sunitha, W/o. Sri Prakash Murthy,
R/o. B/14, F/3, Vijayanagar Colony, Hyderabad.
2 M.S. R. Sarma, S/o. Late Sri M. V. Raghavaiah, SERVICE,
Nandininagar, Banjara Hills, Hyderabad.

Rep. by their GPA Holder

Smt. Ch. INdira Devi, W/o. Sri Bahskara Sarma,
R/o. 16-11-741/B/A/1, Subodaya Residency,

Flat No.401, Bank Colony Street, Dilsukhnagar, Hyderabad.
3 Smt. M. Savithri, W/o. Sri MSR. Sarma, Occ: Household,
Nandininagar, Banjara Hills, Hyderabad.

Rep. by their GPA Holder

Smt. Ch. INdira Devi, W/o. Sri Bahskara Sarma,
R/o. 16-11-741/B/A/1, Subodaya Residency,

Flat No.401, Bank Colony Street, Dilsukhnagar, Hyderabad.

..... PETITIONERS

AND

1 The Deputy Registrar, Coop. Societies (Officer on Spl. Duty),

Vasavi Coop.Urban Bank Limited, Malakpet, Hyderabad.
2 The Sale Officer, 12, 13 & 2, Vasavi Coop. Urban Bank Limited.

Malakpet, Hyderabad.
3 M/s. Saptagiri Structures, Rep. by its Managing Partner V. Rajamouli,
R/o. 6-3-661/4/C, Rekha Delux Apartments, Sangeethnagar, Somajiguda,

Hyderabad.
4 The Vasavi Coop. Urban Bank Limited, Malakpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or a direction or a writ more particularly a writ in the nature of Mandamus declaring the inaction of the Second respondent in not disposing of the claim petition filed by the Petitioners on 2-7-2004 as illegal, arbitrary and violative of principles of natural justice and consequently direct the second respondent to dispose of the claim petition after giving opportunity to the petitioners

-

-

WRIT PETITION NO : 11622 of 2004

Between:

1. M.Nagabhushanam, S/o Sri Ganapathaiah, aged about 56 years, Occ: Business.

2. M.Satyanarayana, S/o Sri Ganapathaiah, aged about 50 years, Occ: Business.

Both R/o 2-10-115, Jyothinagar, Karimnagar.

3. Gunnapalli Vijaya Lakshmi, W/o Sri Maheshwar, aged about 35 years, Occ: House wife, R/o 8-2-120/120-A/14A, Banjara Hills, Hyderabad.

4. Andal Narayan Rao, W/o late Sri Narayan Rao, aged about 57 years, Occ: house wife

5. K.Rajesh, S/o late Sri Narayan Rao, aged about 35 years, Occ: Business

6. K.Mahesh, S/o late Sri Narayan Rao, aged about 34 years, Occ: Business

Petitioners 4 to 6 R/o 14, F/3, Vijayanagar colony, Hyderabad.

..... PETITIONERS

AND

1 The Deputy Registrar, Coop. Societies (Officer on Spl. Duty),

Vasavi Coop.Urban Bank Limited, Malakpet, Hyderabad.
2 The Sale Officer, 12, 13 & 2, Vasavi Coop. Urban Bank Limited.

Malakpet, Hyderabad.
3 M/s. Saptagiri Structures, Rep. by its Managing Partner V. Rajamouli,
R/o. 6-3-661/4/C, Rekha Delux Apartments, Sangeethnagar, Somajiguda,

Hyderabad.
4 The Vasavi Coop. Urban Bank Limited, Malakpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or a direction or a writ more particularly a writ in the nature of Mandamus declaring the inaction of the Second respondent in not disposing of the claim petition filed by the Petitioners on 2-7-2004 as illegal, arbitrary and violative of principles of natural justice and consequently direct the second respondent to dispose of the claim petition after giving opportunity to the petitioners

Counsel for the Petitioners in both the W.Ps.: MR.P.PRATAP REDDY

Counsel for the Respondent No.1 in both the W.Ps.: G.P. FOR COOPERATION

Counsel for the Respondent Nos.2 and 4 in both the W.Ps.: MR.S.ASHOK ANAND KUMAR

For the Respondent No.3 in both the W.Ps.: ---

The Court at the admission stage made the following:

COMMON ORDER:

These two writ petitions are filed by the petitioners, who are claiming to be the purchasers of houses built in item Nos.3 and 4 shown in the auction notice published by the second respondent-Sale Officer of the fourth respondent-Bank.

2. According to the petitioners, they are the purchasers of independent houses built by the third respondent in item Nos. 3 and 4. Those properties were purchased as early as in the years 1998-1999. To the surprise of the petitioners, they have seen the auction notice published in the Eenadu daily news paper, dated 22.06.2004, proposing to sell the properties shown as item Nos. 3 and 4 which

they have purchased, for recovery of certain dues from the third respondent.

3. It is the case of the petitioners that they are not aware of any mortgage said to have been executed in favour of the fourth respondent, by the third respondent. They are *bona fide* purchasers from the third respondent, who is a builder. Therefore, immediately after coming to know of the proposed action of the second respondent, the petitioners filed their claim petitions before him, claiming that they are the owners of the properties proposed to be auctioned, which the second respondent is not entitled to dispose of by way of public auction. But, however, even before a decision is made on the claim petitions filed by the petitioners, the second respondent has fixed the date for auction as 09.07.2004 and if the said auction is allowed to be proceeded with, the petitioners' rights and interests would be affected seriously. Therefore, they sought for stay of auction till the disposal of the claim petitions made by them before the second respondent.

4. The learned counsel appearing for respondents 2 and 4 also stated that since the claim petitions were filed only on 02.07.2004, it would take sometime for the second respondent to dispose of the same. Therefore, the second respondent may be permitted to proceed with the auction, which would be subject to the result of the adjudication of the claim petitions of the petitioners.

5. Heard both sides and considered the material on record.

6. In view of the claims made by the petitioners in both the writ petitions, who have filed their claim petitions before the second respondent, it would not be proper to allow the second respondent to proceed with the auction.

7. Under the above circumstances, the second respondent is directed to consider and dispose of the claim petitions made by the petitioners expeditiously, preferably within a period of four weeks from the date of receipt of a copy of this order.

8. Once the claim petitions are decided and if they are against the petitioners, it is open to the second respondent to proceed with the auction for recovery of arrears due from the third respondent, to the fourth respondent-Bank. On the other hand, if the claim petitions are allowed, the second respondent is not entitled to proceed with the auction with reference to item Nos. 3 and 4 in Serial No.6 of the auction notice dated 22.06.2004 schedule to be held on 09.07.2004.

9. Pending disposal of the claim petitions of the petitioners, the second respondent is directed not to proceed with the auction-sale with reference to item Nos.3 and 4 in Serial No.6 of the auction notice dated 22.06.2004 schedule to be held on 09.07.2004.

10. With the above directions, the writ petitions are disposed of. No costs.

_____

08.07.2004

ES/VGB

To

1 The Deputy Registrar, Coop. Societies (Officer on Spl. Duty),

Vasavi Coop.Urban Bank Limited, Malakpet, Hyderabad.
2 The Sale Officer, 12, 13 & 2, Vasavi Coop. Urban Bank Limited.

Malakpet, Hyderabad.
3 The Vasavi Coop. Urban Bank Limited, Malakpet, Hyderabad.

4 2CCs to the Government Pleader for Cooperation, High Court Buildings, Hyderabad.(OUT)

5 2 CD copies.